

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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LAWRENCE YOUNG,	:	
	:	
Petitioner,	:	<u>NOT FOR PUBLICATION</u>
	:	<u>MEMORANDUM AND ORDER</u>
-against-	:	
	:	
ALEXANDER GEORGE, Chairman of the	:	08-CV-1890 (CBA)
New York State Division of Parole,	:	
	:	
Respondent.	:	
	:	
-----X		
AMON, United States District Judge:		

Petitioner Lawrence Young filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 on April 30, 2008. Petitioner claims that the New York State Department of Correction ("DOC") improperly enhanced the sentence imposed for his Second Degree Robbery conviction to include a period of post-release supervision, which he claims was not part of the sentence agreed to in his plea bargain agreement and imposed by the sentencing judge. Respondent opposed the petition, arguing principally that the petition is time-barred.

On January 25, 2008, the Supreme Court of the State of New York, Queens County, denied petitioner's motion pursuant to N.Y. C.P.L. § 440.20 to vacate his sentence. Instead, the court noted that the DOC was without authority to impose a period of post-release supervision and ordered the DOC to recalculate petitioner's term of imprisonment without a period of post-release supervision. (See DE # 1 at 47-48; DE # 6-2 at 2.) This January 25, 2008 order granted petitioner all of the relief he seeks in the habeas corpus petition before this Court.

Consequently, On April 7, 2009, this Court directed both parties to show cause by April

28, 2009 why this case should not be dismissed as moot. On April 28, 2009, respondent filed an affidavit stating its position that the petition is indeed moot and asking this Court to dismiss it. Petitioner has not responded to the order to show cause.

As petitioner has already obtained relief on the claims he has brought before this Court, these claims are moot. Accordingly, petitioner's application for a writ of habeas corpus is denied. See Thompson v. Choinski, 525 F.3d 205, 209 (2d Cir. 2008); Pettus v. Greene, No. 06 Civ. 2142, 2007 WL 2292743, at *8 (E.D.N.Y. Aug. 9, 2007) (dismissing petition as moot where petitioner already obtained desired relief from state court). A certificate of appealability will not be issued because petitioner has failed to make a substantial showing of the denial of a constitutional right. See 28 U.S.C. § 2253(c)(2). The Clerk of the Court is directed to enter judgment in accordance with this order and to close the case.

SO ORDERED.

Dated: Brooklyn, NY
May 7, 2009

/S/
Carol Bagley Amon
United States District Judge